IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

CRL.A.No. 1154 of 2003()

CC.579/2001 of JUDL.MAGISTRATE OF FIRST CLASS, MAVELIKKARA

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APPELLANT: COMPLAINANT

SWARNAMMA G.,
KARATHERIL VEEDU, EROOR NORTH, CHEPPAD P.O.,
NOW RESIDING AT THARAMEL PUTHEN VEEDU,
KOTTARKAVU P.O., MAVELIKKARA.

BY ADV. SRI.K.HARILAL

RESPONDENTS: ACCUSED & STATE:

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1. PEETHAMBARAN S.,
RANDUKANDATHIL VEEDU, ARYADU NORTH,
ALAPPUZHA.

2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 15/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.A.No.1154 of 2003

Dated this the 15th day of October, 2007

JUDGMENT

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The accused stands acquitted under Section 256(1) of Crl.P.C. as the complainant was absent. It is submitted that the lapse was on account of the wrong noting of the posting date.

2. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 12.11.2007.

The appeal is allowed.

K.R.UDAYABHANU,
JUDGE

csl